



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,005	02/09/2004	Mark T. Krasne	34675	2527
23589	7590	09/26/2005	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			SORKIN, DAVID L	
			ART UNIT	PAPER NUMBER

1723

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,005

Applicant(s)

KRASNE ET AL.

Examiner

David L. Sorkin

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 4,5 and 9-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by McCauley (US 2,585,334). McCauley ('334) discloses a vessel comprising a receptacle (1) having an open top; a closure cap unit detachably secured to the receptacle in a position closing said open top, said unit including a cap (6) and a mixer (10, 11, 13, 14) supported by the cap, said mixer having an actuatable mixing element (10,13,14) extending down into the receptacle from the cap, said cap having an orifice (at 39) through which contents of the receptacle may be discharged when the vessel is up ended. Regarding claim 2, the closure cap unit further includes a stopper (40) movable between positions opening and closing said orifice. Regarding claim 3, said stopper comprises part of an operating lever pivotally mounted on the cap for rocking movement about a fulcrum to shift the stopper between its open and closed positions, said lever including manually depressible portions on opposite sides of said fulcrum (46) for actuating the lever, said stopper being disposed on one of said depressible portions (see col. 3, lines 40-70; Fig. 1).

3. Claims 1, 2, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Vincent (US 3,417,972). Regarding claim 1, Vincent ('972) discloses a vessel

Art Unit: 1723

comprising a receptacle (2) having an open top; a closure cap unit detachably secured to the receptacle in a position closing said open top, said closure cap unit including a cap (11) and a mixer (19) supported by the cap, said mixer having an actuatable mixing element (21,22) extending down into the receptacle from the cap, said cap having an orifice (25) through which the contents of the receptacle may be discharged when the vessel is upended. Regarding claim 2, said unit further includes a stopper (31) movable between positions opening and closing said orifice. Regarding claim 13, said cap has a basin including a floor (15) and sidewalls (27) projecting upwardly from the floor at the periphery of the basin, said orifice being located in said floor, one of said sidewalls comprising a part (26) of a pouring lip on the cap. Regarding claim 14, said unit further includes a stopper (31) movable between positions opening and closing said orifice.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Creighton et al. (US 5,368,387). Regarding claim 1, Creighton ('387) discloses a vessel comprising a receptacle (20) having an open top; and a closure cap unit detachably secured to the receptacle in a position closing the open top, said unit including a cap (30 or 72) and mixer (74), said mixer having an actuatable mixing element (96) extending down into the receptacle from the cap, said cap having an orifice (82) through which the contents of the receptacle may be discharged when the vessel is upended. Regarding claim 2, the closure cap unit further includes a stopper (92) movable between positions opening and closing said orifice.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creighton et al. (US 5,368,387). The vessel of Creighton ('387) was discussed above with regard to claim 1. Creighton ('387) further discloses that the mixing includes an electrically powered motor (94) and a switch (104). In the embodiment relied upon, a battery is not explicitly disclosed, but in col. 4, lines 10-14 Creighton ('387) suggests battery power as an alternative to other electrical power. Creighton ('387) further discloses that the closure cap unit further includes a stopper (92) movable between positions opening and closing said orifice.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Creighton et al. (US 5,368,387) as applied to claim 6 above, in view of Ferrara (US 5,323,973). Creighton ('387) does not disclose an electrical interlock switch. Ferrara ('973) teach an electrical interlock switch (26) operable to interrupt power to a motor when a cap unit is detached from a receptacle (16) (see abstract; Fig. 3; col. 3, lines 1-5). It would have been obvious to one of ordinary skill in the art to have provided the vessel of Creighton ('387) with an electrical interlock switch (26) as taught by Ferrara (US 5,323,973) for the purpose of safety (see abstract).

Allowable Subject Matter

8. Claims 4, 5 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/775,005

Page 6

Art Unit: 1723

A handwritten signature in black ink, appearing to read "David L. Sorkin".

David L. Sorkin
Primary Examiner
Art Unit 1723

DLS